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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Plaintiff,

v.

WINSTON SHROUT,

Defendant.

Case No. 3:15-cr-00438-JO

FIRST UNOPPOSED MOTION TO
CONTINUE SENTENCING
HEARING DATE

The defendant, Winston ShROUT, through counsel, Ruben L. Iñiguez, moves the Court to enter an Order continuing the current sentencing hearing date for 105 days (*i.e.*, until Tuesday, January 9, 2018). Sentencing is currently scheduled for Tuesday, September 26, 2017. This motion constitutes Mr. ShROUT's first request to continue the

sentencing hearing. Neither the government, through Assistant U.S. Attorney Stuart Wexler, nor the U.S. Probation Office, through Theresa Fuchs, opposes this motion.¹

BACKGROUND

On December 8, 2015, the government filed an Indictment charging Mr. Shrout with six misdemeanor violations of Title 26, United States Code, Section 7203 (willful failure to file tax return). ECF 1. Three months later, on March 15, 2016, it filed a Superseding Indictment. ECF 17. The Superseding Indictment increased the number of charges to 19. *Id.* Whereas the original Indictment charged only misdemeanors, the Superseding Indictment added 13 felony violations of Title 18, United States Code, Section 541 (fictitious obligations). *Id.*

In late February 2017, approximately two months before trial, Mr. Shrout traveled to Puerto Vallarta, Mexico, for medical purposes. While in Mexico, he underwent hip replacement surgery. Following surgery, he remained in Mexico for approximately three weeks undergoing physical rehabilitation. He returned to Oregon, as promised, less than two weeks before his trial commenced.

On April 18, 19, 20, and 21, Mr. Shrout appeared in court for his jury trial. ECF 102-105. On April 21, the jury returned guilty verdicts on Counts 1-19 of the Superseding

¹ On June 9, 2017, the government e-mailed the Court and requested that the August 1 sentencing hearing date be continued until the last week of September. Neither Mr. Shrout nor the Probation Office opposed the government's request. *Id.* The Court granted the request and continued the sentencing hearing until September 26, 2017. CR 116.

Indictment. ECF 105. Following Mr. Shrout's conviction, the Court scheduled sentencing for August 1. *Id.*

On June 2, Mr. Shrout filed an unopposed motion requesting the Court's authorization to travel to Nevada and Utah for the purpose of visiting his wife and children before sentencing. ECF 114. The Court granted the motion. ECF 115. Mr. Shrout has since returned to Oregon.

On June 8, prior to visiting his family, Mr. Shrout and his attorney met with U.S. Probation Officer Edie Frolichman in Portland for a presentence investigation report ("PSR") interview. Ms. Frolichman has since retired. As a result, another probation officer, Theresa Fuchs, was recently assigned the task of preparing the draft PSR. Ms. Fuchs has indicated that additional time is needed to complete the draft PSR.

UNOPPOSED MOTION

Mr. Shrout continues to undergo regular physical therapy for his recent hip replacement. He is also in the process of scheduling another surgery for a hernia. He anticipates that surgery being scheduled during the next month. In addition, his wife, Charolette Killips, age 67, is scheduled to undergo hip replacement surgery in Utah in three weeks (*i.e.*, on September 5, 2017).

A continuance of the current sentencing hearing date for 105 days (*i.e.*, to January 9, 2018) is necessary for several reasons. First, to provide Mr. Shrout with additional time

to recover fully from his hip replacement surgery. Second, to afford U.S. Probation Officer Theresa Fuchs additional time to complete the draft PSR. Third, to allow Mr. Shrout more time to schedule, undergo, and recover from surgery for a hernia. Fourth, to allow Mr. Shrout to travel to Utah so that he may be present when his wife undergoes hip replacement surgery on September 5, and remain by her side until she recovers and regains her mobility.

A continuance of the current sentencing hearing date is also necessary to provide defense counsel, who will be out of the office from August 17 to 21 and September 1 to 5, a reasonable opportunity to review the draft PSR, to meet with Mr. Shrout to review and discuss the draft PSR, to prepare and submit any defense objections and/or clarifications to the draft PSR, and to prepare effectively for sentencing.

CONCLUSION

For each of the foregoing reasons, Mr. Shrout asks the Court to grant his unopposed motion to continue the current sentencing hearing date for 105 days (*i.e.*, until Tuesday, January 9, 2018).

RESPECTFULLY submitted this 15th day of August, 2017.

/s/ Ruben L. Iñiguez

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